

BEFORE THE  
INSURANCE COMMISSIONER  
OF THE  
STATE OF CALIFORNIA

In the License and Licensing Rights of:

MARIO EDUARDO CEJA

Respondent.

Case No. LBB 0581-AP

OAH No. L 2002080503

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on August 22, 2003.

Kevin W. Bush, Staff Counsel, represented Complainant.

Erika S. Lipcsey, Attorney at Law, represented Respondent Mario Eduardo Ceja.

At the hearing in this matter the admissibility of Exhibits 8 and 10 was taken under submission. Both exhibits are police reports. Based upon the case of *Lake v. Reed* (1997) 16 Cal.4<sup>th</sup> 448, the exhibits are admitted in evidence.

The matter was submitted on August 22, 2003.

FACTUAL FINDINGS

1. Complainant, the Insurance Commissioner of the State of California (“Commissioner”), filed the First Amended Accusation in this proceeding in his official capacity.
2. Respondent, Mario Eduardo Ceja now is and since December 27, 2001, has been licensed by the Commissioner to act as a life agent.
3. Respondent filed his application for the life agent license he holds on November 20, 2001. In that application, Respondent answered “yes” to the question of whether he had

been convicted of a crime. He also disclosed one criminal conviction in 2000. No other convictions were listed.

4. On October 7, 1997, in the Municipal Court of Los Angeles County, Malibu Judicial District, California, Respondent was convicted of a violation of Penal Code Section 502.8 (c) – possession of illegal telecom equipment with intent to sell – a misdemeanor. The court placed Respondent on summary probation for a period of one year on the condition that he pay a fine and assessments of \$335.00. Respondent has completed the probation and paid the required amount.

5. On May 4, 2000, in the Municipal Court of Los Angeles, Van Nuys Judicial District, California, Respondent pled nolo contendere to a violation of Vehicle Code Section 4462.5 – avoiding vehicle registration compliance – a misdemeanor. The court placed Respondent on summary probation for a period of one year and ordered him to pay a fine and assessments of \$795.28. Respondent has completed the probation and paid the required amount.

6. On June 20, 2002 subsequent to filing his license application, Respondent entered a plea of nolo contendere to a violation of Vehicle Code Section 23109 (A) – engaging in a speed contest – a misdemeanor, in the Municipal Court of Los Angeles, Van Nuys Judicial District, California. The Court placed Respondent on summary probation for a period of twenty-four months and ordered him to pay a fine and assessments of \$612.00.

7. With regard to his 1997 conviction, Respondent stated that he was barely 18 years old when it happened. He said that his father retained an attorney who told him the matter was or would be expunged within a year. He did not believe that he had to disclose it based upon what he had been told. Respondent did disclose his 2000 conviction. He said he did not have money to get that one expunged.

8. The 1997 conviction occurred as a result of sheriff deputies finding two cell phones in the front seat area of the automobile Respondent was driving when they stopped to see if they could provide assistance to Respondent who was parked on the side of the road. At least one of the phones had been cloned.

9. The 2000 conviction arose as a result of the automobile he was driving not having a current registration. Respondent had not been able to re-register the automobile because it did not have insurance. When he could not get it re-registered Respondent purchased a sticker from someone on the street to put on the license plate to give the impression that it had been registered. The fact that it was not registered was discovered when police officers ran the license number with the Department of Motor Vehicles.

10. Respondent graduated from high school in 1997. He then attended Glendale Community College but did not graduate due to the necessity to get a job.

11. Respondent is married and has a five year old son. He is active in his church (Church of the Sacred Blood). He and his wife are active participants in soccer.

12. Respondent is employed in the banking business. In 1999, he was hired as a teller at California Federal Savings. He was promoted to teller supervisor and then transferred to New Accounts. In 2000, he became a Financial Representative and needed a life agent license for this position. In that position, he was registered with John Hancock Variable Life Insurance, Travelers and Travelers Life.

13. In 2003, Respondent went to work for Washington Mutual Bank as a Financial Advisor Assistant. He is currently in training and studying to be a Financial Adviser. He is enrolled in continuing education courses concerning Life and Disability and Series 7.

### LEGAL CONCLUSIONS

1. Cause exists, pursuant to Insurance Code Sections 1668 (b) and 1738, to suspend or revoke Respondent's life agent license on the grounds that it would be against the public interest to permit Respondent to continue transacting insurance in the State of California by reason of the criminal convictions set forth in Paragraphs 2 through 5 and 7 through 9 of the Factual Findings.

2. Cause exists, pursuant to Insurance Code Sections 1668 (e) and 1738, to suspend or revoke Respondent's life agent license on the grounds that Respondent is lacking in integrity by virtue of the facts and circumstances surrounding his convictions set forth in Paragraph 4, 5, 8 and 9 of the Factual Findings.

3. Cause exists, pursuant to Insurance Code Sections 1668 (m) (3) and 1738, to suspend or revoke Respondent's life agent license in that he has been convicted of public offenses having as one of their necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property as more fully set forth in Paragraphs 4, 5, 8 and 9 of the Factual Findings.

4. Cause exists, pursuant to Insurance Code Sections 1668 (i) and 1738, to suspend or revoke Respondent's license and licensing rights in that he previously engaged in a fraudulent practice or act in connection with his convictions more fully set forth in Paragraphs 4, 5, 7, and 8 of the Factual Findings.

5. No cause exists, pursuant to Insurance Code Sections 1668(h) and 1738, to suspend or revoke Respondent's life agent license in that he did not knowingly or willfully make a misstatement in his application for a life agent by not disclosing his 1997 as more fully set forth in Paragraphs 3, 4 and 7 of the Factual Findings.

6. No legal conclusion is drawn with regard to Respondent's 2002 traffic violation other than to note its existence.

7. Notwithstanding the foregoing conclusions, Respondent has demonstrated sufficient rehabilitation to be given a restricted license. He is married and has a stable family life. He has been regularly employed since 1999 and is making good progress professionally. He is taking courses and receiving training for job advancement. There have been no disciplinary problems in connection with his life agent license. The crimes of which he has been convicted evidence immaturity and poor judgment. It appears that he learned from these experiences.

### ORDER

All licenses and licensing rights of Respondent Mario Eduardo Ceja under the California Insurance Law are revoked; provided, however, a restricted life agent license shall be issued to Respondent pursuant to Insurance Code Section 1742 if Respondent makes application therefor and pays to the Department of Insurance the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of said section 1742 and to the following limitations, conditions and restrictions:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Insurance Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Insurance Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Insurance Law, Regulations of the Insurance Commissioner or conditions attaching to restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted life agent license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

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4. Respondent shall submit, with any application for the registration of his license with an insurance company, a statement signed by such company on a form approved by the Department of Insurance which shall certify:
  - (a) That the company from which the registration is sought has read the Decision of the Commissioner which granted the right to a restricted license; and
  - (b) That the insurance company will exercise close supervision over the performance by the restricted licensee relating to activities for which a life agent license is required.

DATED: August 29, 2003.

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N. GREGORY TAYLOR  
Administrative Law Judge  
Office of Administrative Hearings